The Solicitors' Journal

VOL. LXXXIX Saturday, April 14, 1945 No. 15

CONTENTS

CURRENT TOPICS

Easter Law Sittings

THE cases down for hearing in the High Court during the present term, which began on 12th April, show a decrease in most respects, as compared with the corresponding term of last year. In the King's Bench Division the drop is only 22, the total figure this term being 333. Of these 130 are long non-jury actions (148 last year), 199 short non-juries (201 last year), one case in the commercial list (four last year), and three short causes. Eighteen witness actions and 34 non-witness actions are down for hearing in the Chancery Division (52 as against a total of 78 last year), and COHEN, J., will take the 39 companies matters. There are five Admiralty actions for trial (three last year) and Divorce causes, which last year numbered 2,920, this year number 3,323. In the Divisional Court there are 136 appeals (108 last year). Of these 69 are in the Divisional Court list itself, 52 in the Revenue Paper, and five in the Special Paper. There are seven appeals under the Housing Acts, one under the Public Works Facilities Act, 1930, and two under the Pensions (Appeal Tribunals) Act, 1943. In the Court of Appeal there are 55 appeals (96 last year). There are 51 final appeals ; 27 are from the King's Bench Division (52 last year), one is from the Chancery Division (11 last year) and seven are from the Probate, Divorce and Admiralty Division (six last year). There are 16 appeals from county courts (23 last year), of which six are workmen's compensation appeals (five last year).

New Metropolitan Police Magistrate

MISS SYBIL CAMPBELL, who has been appointed by the Home Secretary to be a Metropolitan Police Magistrate in place of Mr. ARTHUR MORLEY, K.C. (now Chairman of the Middlesex Quarter Sessions), enjoys the distinction of being the first woman to be appointed to the bench of stipendiary magistrates in this country. Since the Sex Disqualification (Removal) Act, 1919, many women magistrates have been appointed by the Lord Chancellor, and many women have been called to the Bar, but Miss CAMPBELL is the first woman barrister to reach any of the legitimate goals of a barrister's ambition and ability, a salaried position on the bench. Miss CAMPBELL was called to the Bar only three years after the Sex Disqualification (Removal) Act was passed. Like many other barristers who have reached the bench, the new woman magistrate has had a brilliant academic career, having been senior student at Girton College, Cambridge, in 1912. Before her call to the Bar Miss CAMPBELL had experience as an investigating officer in connection with trade boards and as deputy to the Assistant Commissioner for Enforcement in the Midland division of the Ministry of Food of the last war. From 1930 to 1939 Miss CAMPBELL was a metropolitan chairman of courts of referees and in 1939 she was appointed Assistant Divisional Food Officer (Enforcement) in the London division of the Ministry of Food. Miss CAMPBELL returned to the Bar at the end of last year. We offer the new woman metropolitan police magistrate our sincere congratulations on her appointment.

War Criminals

A SELECTION of points from the notable speeches in the latest House of Lords debate on War Criminals on 20th March, 1945, would have to include Lord Addison's question as to what steps, if any, can be taken to secure that those who have taken refuge in neutral countries shall not thereby be safeguarded in their immunity from justice. It would also include the Archbishop of York's demand for the outlawry of Nazi criminals and Lord Perth's long list of crimes, such as mass murder, removal of food, deprivation of shelter, mass torture, and so forth, committed by Germans at the instigation of and as a result of elaborate planning by their leaders. Lord Maugham's statement that persons who have had a hand in these crimes run into millions, and that therefore some selection should be made, should also figure in the account. Without a doubt, however, the three outstanding speeches were those of Viscount Cecil of Chelwood, Lord Wright (Chairman of the United Nations War Crimes Commission), and the Lord Chancellor. VISCOUNT CECIL distinguished between those acts which were crimes, like murder and torture, and those which were political offences, like the waging of aggressive war without any justification. The former, his lordship said, were ordered and directed from headquarters, and for them the men at the top ought to be brought before a criminal court and ought to have to answer. "Punishment," said his lordship, "should follow proof of the crime ; the principle of law should be again established in international affairs, and should be allowed to take its course." LORD WRIGHT spoke of the work of detection that was going on, and of the sending of lists to the fifteen different member governments composing the Commission. These lists, he said, are then sent to the military forces through the governments and the army receives those lists as warrants to apprehend the persons named in them. The real difficulty, his lordship said, was to identify and apprehend the criminals. It would be almost more than satisfactory, his lordship thought, if 10 per cent. of the criminals were apprehended and dealt with.

The Lord Chancellor's Statement

THE debate concluded with the LORD CHANCELLOR'S reply for the Government. In a speech that lasted just over half an hour, his lordship gave the House a clear account of the policy of the Government, the work of the War Crimes Commission, and their hopes for the future. For himself and for the Government as a whole he asserted with every confidence and absolute truth that it was the big criminals as well as the small criminals that had been the subject of the closest consideration in Government discussions. The real offence which the whole world knew had been committed by the major criminals was not limited to the war period, his lordship said. The maltreatment of the Jews by the high authority of the German Government had happened before the war began, and when the world took upon itself to try to clear up this ghastly situation it was not going to fail to observe those facts, though they fell strictly outside what might be called war crimes. In speaking of the general difficulties in the way of detection, Lord Simon made the prophecy that, as the allied armies penetrated further and further into Germany, they would get more and more information and be able to take more and more cross-sections, which would help them to put together the various pieces of evidence. LORD SIMON supported LORD MAUGHAM'S expressed preference for military tribunals in occupied countries (his lordship presumably meant Germany and Italy) to deal with war crimes. The conclusion of his speech was as eloquent as the previous part was clear and persuasive. "Justice," said the Lord Chancellor, "is a very much greater thing than a collection of verdicts for the prisoner or for the prosecution. It is really fundamentally the basis of our free life . . . To my way of thinking the fifth freedom is the right of a free man and woman to know that the powers which govern the world will be strong enough to repress outrageous evil . . . Civilisation cannot advance unless everybody is enabled to feel that the law is strong enough to protect him from hideous wrong . . . I cannot think of any single contribution more likely to strengthen and put in their proper shape these world-wide rules of right and wrong than that the war criminals should be dealt with on the basis that those who are guilty of these awful offences will be swiftly and justly punished."

Lay or Stipendiary

THE House of Lords has now taken part in the controversy on the comparison between stipendiary and lay magistrates. In the debate on 29th March following LORD DENMAN'S motion relating to the problem of neglected and homeless children, those noble lords who gave their opinions with regard to the magistrates' courts expressed themselves strongly in favour of the lay bench. Lord Denman somewhat inaccurately described stipendiary magistrates as paid "officials." Viscount Maugham said that Lord Roche, who was well acquainted with business in magistrates' courts, wished him to say that he wholly disagreed with the proposal to appoint stipendiary magistrates in substitution for, or supplementation of, the lay bench. VISCOUNT MAUGHAM added that he also disagreed, and said that questions which magistrates had to decide were almost entirely questions of fact, generally of a simple character. He shared Lord Roche's opinion that on these questions the opinion of a layman was as good as that of a lawyer. Accordingly be doubted very much whether the decisions would be more correct if a stipendiary sat in the court than they were now. Of the 820,000 cases heard in magistrates' courts in 1938, there were 939 appeals. On appeal 184 sentences were quashed and in 270 cases the sentences were reduced. There were nearly 1,000 petty sessional courts, continued VISCOUNT MAUGHAM, and about 15,000 magistrates, and if the appointment of trained lawyers to these courts were to be considered, one answer would be that it was quite impossible to find an adequate supply of such lawyers. His lordship said that it was also LORD ROCHE'S view that lay magistrates would be very unwilling to sit on benches if it were supposed that they were not fit to do their job properly and that they ought to be guided by a species of legal schoolmaster who would correct them and supervise everything they did. In a previous "Current Topic" on this subject (*ante*, p. 145), a general preference was expressed for stipendiary magistrates, and the arguments put forward in the House of Lords have not caused the writer to change his views. Many advocates will not agree that the questions before magistrates are always simple questions of fact. They are quite frequently complicated, and at times the impression is created that the issues are not clearly understood in spite of the most patient explanations by advocates. The fact that there are few appeals does not prove that the system is efficient. Nor is it necessary for the stipendiaries to supervise the lay bench in schoolmaster fashion. A suitable division of labour as between stipendiary and lay bench has been found to work admirably in London and should work elsewhere. An adequate supply of barristers could easily be found to do the more difficult work of the 1,000 magistrates' courts. Even if this were not so, is there any reason why solicitors with adequate experience of advocacy should not be appointed?

Road Safety

THE work of the Departmental Committee on Road Safety, which recently resulted in the presentation of an Interim Report to the Minister of War Transport, has been obviously conscientious and inspired by a feeling for the urgency of the situation. Loss of life and limb on the roads has been appalling for years, and everyone will agree with the finding of the Alness Committee and of the present committee that remedies must be drastic in character. Some, like the Pedestrians' Association, will feel that the interim recommendations are not drastic enough. Others may be apprehensive that the cost of the proposals will be beyond the resources of the country to meet except on the basis of a programme, the results of which in lessening accidents cannot be felt for years to come. It is interesting in this connection to note that estimates of costs are to be left for a later report. The committee stresses the importance of education and propaganda, but considers that these "must be viewed in proper perspective in relation to physical and other remedies. The physical remedies include the construction of dual carriageways, the use of flyover crossings or flyover junctions, the vigorous remedying of bad or inadequate road conditions, the provisions of adequate vehicle parking places, and general regard to the principles of segregation of traffic and classes of traffic in planning roads. No criticism is possible of the principle of the segregation of traffic, but the proposals with regard to the segregation of pedestrians, for instance, the suggestion that all but motor traffic should be excluded from arterial roads, have already met with protests from the Pedestrians' Association. Many road users not connected with that useful body will feel that this proposal reveals a bias in favour of the motorist, especially as there is no corresponding proposal to exclude the motorist generally from local roads, but only that "through traffic should be excluded as much as possible by means of a discouraging lay-out." It is not practicable to drive either the motorist or the pedestrian from all the roads, and segregation is clearly one of the most important remedies for a disease which has already lasted too long. It must be applied, however, in a manner which is fair to all classes of the public. With regard to all the remedies proposed and accepted, they must, as the committee submits, and as the Alness Committee submitted before them, be brought into effect with all possible speed and must take the highest possible priority in all the many schemes for post-war improvement. The cost in human life and health entailed by our present inadequate measures of road safety completely dwarfs any possible cost of making the roads safe for all.

The Speed Limit

AMONG the many matters dealt with in the Interim Report of the Departmental Committee on Road Safety, the speed limit is of the first importance. On the question of a universal

speed limit the report states: "It is evident that the greater the speed the more deadly the effect of an accident, but it is also evident that vehicle speeds must be related to traffic and road conditions and other circumstances." The committee agrees with the view of the Alness Committee that "a universal speed limit was a doubtful remedy in the past and was almost impossible to enforce. It would now be still more difficult of enforcement." The committee strongly support the continuance of the speed limit of thirty miles per hour at places where pedestrians or pedal cyclists are likely to be encountered in large numbers by motor traffic. They point out, however, that "if the speed limit is to be effective, it must be applied with discretion so that it will attract the respect, goodwill and co-operation of the public." Moreover, it is stated, restriction of speed should not be imposed if the desired effect can be achieved by other means, e.g., by a co-ordinated system of traffic signals or the use of guard rails and crossings, especially where pedestrians are to be expected on short lengths of road only, or for short periods only. Nor should there, the report states, be frequent transition "from restriction to patches of unrestricted road and *vice versa*," on lengths of open road. A more restrictive speed limit in the early post-war period would, in the opinion of the committee, be inadvisable, as it would be "unpopular and incapable of enforcement, particularly in the early post-war period when the police may not for some time be at full strength." It is suggested that the abolition of the war-time restriction of speed to twenty miles per hour (subject to certain exceptions) in built-up areas during hours of darkness must be related to the progress made with the reinstatement of street lighting. In all these opinions it is impossible not to detect a certain tenderness for the motorist. There may well be difficulties in estimating from statistics the loss of life and limb which is due to the absence of any or of any given speed limit. It is submitted, however, that this is one of the questions to which common-sense gives a better answer than statistics, and that the common-sense answer is that the greater is the speed of a moving object, the less is the amount of warning of its approach. To some minds this would seem to be a sufficient reason for the imposition of a universal speed limit.

Ex-Service Men and Purchases of Businesses

TIMELY words of warning have been published by the Price Regulation Committee of the North Midland region to ex-service men and women who intend to use their gratuities for the purpose of buying businesses. They are asked to exercise the greatest care before buying, and to beware of unscrupulous vendors. The points that they are advised to bear in mind include the necessity for careful investigation beforehand, and the advisability of approaching the British Legion or other organisations willing to advise them. It is stated that a licence from the local price regulation committee is necessary for the opening of a new business or the transfer of an existing business, and prospective buyers are advised to see that any agreement for the purchase of a business or the taking of premises should contain these words: "This agreement is subject to a licence being granted by the Local Price Regulation Committee. In the event of such licence being refused, this agreement shall be cancelled and the purchaser shall be entitled to the return in full of any deposit paid by him." The committee states that it will endeavour to safeguard the interests of ex-service men and women, and where there is little prospect of a business being a success or a buyer is paying an excessive price, the committee will, if it considers it is in the interests of the applicant, have no hesitation in refusing a licence. Solicitors with pre-war county court experience will recall that actions for fraudulent misrepresentation on the sale of a business were by no means rare, and not a few of them were successful. When they failed, this was generally due to a combination of circumstances, chief among which were over-readiness of the purchaser to take on trust the words of commendation which the vendor naturally used in connection with what he wished to sell, and the failure of the business in the first few months after the transfer to rise even to its true pre-transfer standard, partly owing to lack of business acumen and experience on the part of the newcomer, and partly owing to his lack of knowledge of the idiosyncrasies of the business he was taking over. If licensing committees could interview vendors and purchasers before granting their licences, and in a proper case make it a condition of a licence that there should be an intermediate period of tuition and partnership of a specified duration before completion of the transfer, there might well be a greater proportion of successful transfers of businesses. There is no reason why Price Regulation Committees should consider this task outside their proper sphere. The more safeguards against individual bankruptcies that exist after the war, the better will the public be protected against tidal waves of price fluctuations and unemployment.

Release from the Forces

EVERY member of the Forces will soon be provided with a copy of the Government's booklet explaining the scheme of release from the Forces and resettlement in civil life to be applied between the defeat of Germany and the end of the war with Japan. At a meeting on 5th April, Mr. BEVIN said that the Government were more determined than ever that the Class B releases (special releases for urgent needs) should be strictly limited. He said that before employers rushed to ask for special releases under Class B they must examine what resources of man-power they had both from the Class A (age and length of service) releases and from the munitions industries. The booklet gives some useful details of the respective rights of Class A and Class B released persons. The Class A released man has a first right to a minimum of eight weeks' resettlement leave with full pay, ration or leave allowance, and, where applicable, family allowance, dependent's allowance, and war service grant. War gratuity and post-war credit, if admissible, will be paid as soon as possible after release. During this eight weeks' leave a man may take what employment he likes and the leave payments will be continued for the full period in any case. A Class A man can exercise his rights of reinstatement in his former occupation. A Class B release man will be entitled to three weeks' transfer leave with full pay, etc., but any war gratuity will be held in suspense. The Class B man will be placed in a special class of the Reserve and be directed to the reconstruction employment for which he has been released. If he leaves that employment he will be liable to recall to the Forces. Men who accept release in Class B may be sent to work anywhere in the United Kingdom, but will be employed near their homes whenever possible. Resettlement advice offices are to be set up in all towns of any size. Appointments offices will also be opened for persons seeking higher professional, technical or managerial posts. The routes of resettlement indicated in the booklet are: (1) Return to pre-war employment by the exercise of reinstatement rights; (2) Recovery of time lost in training for a trade by the resumption of an interrupted apprenticeship on specially favourable terms; (3) Training or continued training for a skilled occupation in industry or commerce; (4) Further education or training, including a refresher course, for a professional career; (5) Restarting, with financial aid, in business on one's own account, or, in the case of disabled persons, setting up in business for the first time; (6) Settlement in the Dominions; (7) Special training, rehabilitation, and employment for the disabled.

Recent Decision

In a reserved judgment recently delivered by COHEN, J., and shortly reported in *The Times* of 5th April, an applicant asked for a declaration that, having regard to s. 10 (5) of Naturalization Act, 1870, he was deemed to be a British subject on the ground that his father, who had been born in Rumania, was naturalised in 1910, and that, although himself born in Rumania in 1887, he then automatically became naturalized as a child of his father. COHEN, J., held that the application failed as "child" in the section meant "infant child," and the applicant was not an infant at the date of his father's naturalization.

SOME DEFINITIONS OF "GOODS" AND "DOCUMENTS"

HUMPHREYS, J., had recently to consider these terms in relation to the War Damage Act, 1943. The words have often been defined, and it is interesting to collect and consider some of the more important definitions. The resulting notes may be useful to practitioners who have to use or construe the words.

Goods are defined by s. 104 of the above Act as including "all corporeal property neither falling (whether generally or in relation to any particular land) within the meaning assigned to the expression 'land' by the last preceding section, nor deemed for the purposes of section 71 of this Act to form part of a highway . . ."

This definition blocks out a very broad class of property under the heading of "corporeal" (visible and tangible) and then excludes portions of the broad class. The portions excluded are—

(1) Land, including buildings or works situated on, under or over it; but not including plant or machinery except (*a*) "anything which, on a valuation for rating purposes for the time being in force made by reference to the accounts, receipts, profits or output of an undertaking, was treated as the subject of an occupation enjoyed by the person carrying on the undertaking," and (*b*) "such plant and machinery as would, if the land were a hereditament to which section 24 of the Rating and Valuation Act, 1925, applied, be by virtue of the provisions of that section and of the Plant and Machinery (Valuation for Rating) Order, 1927, deemed for the purposes mentioned in subsection (1) of the said section 24 to be a part of the land, or, where the land is a hereditament to which the said section 24 applies, such plant and machinery as is so deemed for those purposes to be a part of the land."

(2) Any crop, whether grown for food or not. This covers trees, except trees forming part of a hedge and trees whose value for shelter or amenity is greater than their value, for felling or for the growing of fruit for sale.

(3) "Money, negotiable instruments, securities for money, evidences of title to any property or right or of the discharge of any obligation, or any documents owned for the purposes of a business."

(4) Part of a highway maintainable at public expense, including bridges, tunnels, lamp-posts, etc.

The question which Humphreys, J., had to answer in *Hill* v. *R.* (1945). 61 T.L.R. 294, was whether a number of account books used by an incorporated insurance broker were "goods," as defined above, and as such insurable under the business scheme for war damage insurance. He held that the books were within the broad class of "corporeal property" but were excluded as being "documents" in the above sense. A document is something which gives information, something which makes evident that which would not otherwise be evident. Darling, J., in *R.* v. *Daye* [1908] 2 K.B. 333, said: ". . . any written thing capable of being evidence is properly described as a document." The material of which it is manufactured need not be paper; and see s. 34 (4) of the Road and Rail Traffic Act, 1933, where "document" includes "number plates." By s. 36 of the same Act "'goods' includes goods or burden of any description."

Before leaving the War Damage Act, *Re Baldwin*, 27 L.J. Bk. 22, should be noted. Turner, L.J., said: "Goods and chattels are words of very extensive signification, and undoubtedly comprise both property tangible and property which is not tangible." This is far wider than the above statutory definition.

The Companies Act, 1929, includes under "goods" "all chattels personal."

The Carriage of Goods by Sea Act, 1924, and the Merchant Shipping Act, 1894, include "every description of wares and merchandise," though the former excludes "live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried."

The Sale of Goods Act, 1893, includes "all chattels personal other than things in action and money," and further includes "emblements, industrial growing crops, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale."

The Inland Revenue Regulation Act, 1890, includes "commodities and chattels."

The Factors Act, 1889, includes "wares and merchandise." This is based on the Harbours, Docks and Piers Clauses Act, 1847.

The Merchandise Marks Act, 1887, defines goods as "anything which is the subject of trade, manufacture or merchandise." It will be noted that this is a definition and not merely an inclusion.

The Railway Clauses Consolidation Act, 1845, includes "things of every kind conveyed upon the railway."

Two Australian cases (*McKenna* v. *Dent* (1912), V.L.R. 150, and *Elsworth* v. *Stamps Commissioner* (1920), 20 S.R.N.S.W. 305) are authority for including money and sheep. The following are some other inclusions: ships (*Behnke* v. *Bede* [1927] 1 K.B. 649); industrial growing crops (*Stephenson* v. *Thompson* [1924] 2 K.B. 240); documents (*The Noordam* (*No. 2*) [1920] A.C. 904; money, notes, cheques and bonds (*The Frederick VIII* [1917] P. 43); shares (*Evans* v. *Davies* [1893] 2 Ch. 216), dogs; (*R.* v. *Slade* (1888), 21 Q.B.D. 433); debts (*Ford's Case*, 12 Rep. 1, and *Ryall* v. *Rowles*, 1 Ves. Sen., but see *R.* v. *Powell*, *infra*).

The following are some exclusions: deck cargo (*British and Foregin Marine Insurance Co.* v. *Gaunt* [1921] 2 A.C. 41); leaseholds (*Richardson* v. *Webb* (1884), 1 Morr. 40); a share in a horse (*Manson* v. *Short* (1835), 2 Bing. N.C. 118); a ship's outfit (*Hill* v. *Patten* (1807), 8 East 373); debts (*Calye's Case*, 8 Rep. 33*a*; *Woolcomb* v. *Woolcomb*, 3 P. Wms. 112; *R.* v. *Powell*, 21 L.J.M.C. 78; compare with *Ford's Case*, *supra*).

Turning from "goods" to "documents," the crucial word in *Hill's* case, *supra*, definition is not quite so rich. *R.* v. *Daye*, *supra*, is obviously one of the most important authorities.

The Companies Act, 1929, includes "summons, notice, order, and other legal process, and registers."

The Finance Act, 1921, includes "affidavit, account and record."

The following are some inclusions in reported cases. A case submitted to counsel by a solicitor in contemplation of litigation (*Re Morgan & Co.* [1915] 1 Ch. 182); workmen's time-recording cars (*Re Alderton* (1941), 59 R.P.C. 56); cheques, postal orders and money orders (*Strang* v. *Adair* [1936] S.C. (J.) 56).

A plan or map which was not evidential but merely illustrative was excluded (for the purpose of the County Court Rules) in *Hayes* v. *Brown* [1920] 1 K.B. 250. The court for that purpose took a narrower view than it did in *Hill* v. *R.*, *supra*, where "evidential" was taken as "informative" rather than capable of being evidence in the forensic sense.

In short, there is considerable variation in definition according to the purpose for which the words are used. In trying to construe them it is thus necessary to consider the context with great care in order to find which have been contemplated by authority.

Meetings of the University Correspondence College Law Club will be held at the University of London Club, 19 and 21, Gower Street, W.C.1, at 6.45 p.m. on Monday, 16th April, Tuesday, 12th June, and Monday, 16th July. The Director of Law Studies is addressing the meeting of 16th April on the topic of "Law Reporting." There will be present a number of professional law reporters who will express views upon the matter from their own angles. A moot will be held at the second meeting on 12th June. At the third, on 16th July, an address will be delivered upon the topic of the "Administration of Justice in the Sudan." Any member intending to attend any of these meetings is requested, in order to enable adequate arrangements to be made, so to inform the Hon. Secretary, 6, Raymond Buildings, Gray's Inn, London, W.C.1, not later than four days before the meeting.

A CONVEYANCER'S DIARY

"STILL IN MY EMPLOYMENT AT THE DATE OF MY DEATH"

In *Re Cole* [1919] 1 Ch. 218, a young man was required, as a condition of obtaining a legacy, to remain in the employment of a certain company who employed him before the last war. He joined the Army in September, 1914, as a volunteer with the approval of the directors of the company, and served throughout the war. At all material times he intended to resume his service with the company as soon as he obtained his discharge, and the directors intended that he should do so. Sargant, J., held that he was still in the company's employment for the purposes of the condition. On the other hand, in *Re Drake* [1921] 2 Ch. 99, the testator gave legacies to his indoor and outdoor servants provided that they were not under notice to leave at his death, and provided that they should "have been in my service for upwards of ten years prior to my death." The testator kept a large staff, certain members of which had served with the colours during the last war. All joined on the clear understanding that their places would be kept open for them on the termination of their military service, and on being released they all did, in fact, return to the testator's service. P. O. Lawrence, J., held, however, that the periods while they were away at the war could not be counted in reckoning the qualifying period of ten years.

These decisions do not, at first sight, seem easy to reconcile, though it might, if really necessary, be possible to do so. But I understand that they have recently been considered by Cohen, J., in a case as yet unreported, in which the learned judge found a context enabling him to uphold a bequest given to a servant on terms that he should be in the testator's "employment" at the testator's death, notwithstanding that the legatee was in fact in the Army at that date. That is to say, the decision was like that in *Re Cole*, though the circumstances were like those of *Re Drake*. No doubt this case will be reported before long, but in the meantime practitioners will appreciate, in case they have to deal with such a case, that *Re Drake* is not the last and conclusive authority on the matter.

PURCHASER'S RIGHT TO A PLAN

There can be little doubt that in any normal case, large or small, a purchaser of land will be well advised to have the subject-matter of his purchase described by reference to a plan on the conveyance, whether or not the plan requires to be supported by complicated words of description. But he has not always a right to compel the vendor to convey by plan, and, where he has not that right, he will clearly have to offer to pay the vendor's costs occasioned by there being a plan, and the vendor will not be bound to make a special contract even on that basis.

Re Sparrow and James' Contract [1910] 2 Ch. 60 was a case actually decided in 1902, but not sooner reported. In December, 1901, the vendor offered 220 acres of land for sale by auction under printed particulars to which a plan, copied from the Ordnance Survey, was attached. The conditions were silent as to the form of conveyance. The purchaser in due course submitted a draft conveyance in which the property was described in general terms, with the following addition: "Which said premises are more particularly described in the first schedule hereunder written, and, with their respective quantities and boundaries are delineated or shown on the plan drawn on the back of these presents, and thereon surrounded by a red verge line." The vendor proposed to insert the words "by way of elucidation and not of warranty" between the words "boundaries are" and the words "delineated or shown." The purchaser objected, and a vendor and purchaser summons was issued to decide whether the words were to go in or not. Counsel for the vendor stated in argument that if a plan had to be prepared according to a new survey (which he suggested would be necessary if the vendor were not relieved from warranting the accuracy of the plan) the cost would be considerable, the land being over 200 acres in extent. Farwell, J., stated that without a plan on the conveyance the "description . . . is insufficient, or, if not insufficient, unsatisfactory, and . . . does not fulfil the duty cast upon the vendor, who knows, while the purchaser does not, the property, to describe the property conveyed with reasonable certainty." His lordship added, moreover, that he was "not aware of any decision which shows that a plan on a conveyance amounts to a warranty that the plan is accurate." He declared therefore that "the purchaser is entitled in this particular case, to have a plan, in order to supplement the general description in the draft conveyance." It is clear that this decision stands on the insufficiency of a particular verbal description, and, indeed, Farwell, J., expressly said that "If a vendor puts in a description which is sufficient without reference to a plan, that may be enough."

In *Re Sansom and Narbeth's Contract* [1910] 1 Ch. 741, the vendors put up certain freeholds for sale by auction in lots. Lot 2 was described in the particulars as "The freehold dwelling-house and shop No. 92 High Street, Eltham, situated at the corner of Elizabeth Terrace . . . let to Mr. W. A. Narbeth, draper," on certain terms. The purchaser of Lot 2 was the tenant Narbeth himself. His solicitors in due course submitted a draft conveyance, including a plan with dimensions marked on it. The vendor refused to convey by plan at all, saying that he had no measurements on his deeds. In fact there seems to have been a plan on the conveyance to the vendor's immediate predecessor in title and the conveyance to the vendor was by reference to that plan (see *per* Swinfen Eady, J., at p. 749). But one is left to infer that this plan, if it had any measurements, was obsolete. On these facts, Swinfen Eady, J., held that the purchaser was entitled to a plan and approved a passage in Williams on Vendor and Purchaser, which was as follows: "With respect to the parcels or descriptions of the property sold, it appears that a purchaser is entitled to have inserted in the conveyance such a description of the property sold as will clearly identify the land intended to be assured. If, therefore, the description of the property sold contained in the contract be misleading, inadequate or obsolete, the purchaser should insert in the draft conveyance an accurate description of the land, prepared from his own surveyor's report; it is thought in these circumstances the vendor could not refuse to convey the land by the new description." It is to be noted that under this statement of the law the cost of preparing the plan falls on the purchaser; the vendor will likewise have to bear his own costs of checking the accuracy of the plan, if he considers that necessary. But it would seem to follow that in cases where the purchaser has not a right to a plan, but where the parties agree that there should be a plan, the purchaser ought not only to pay his own costs of preparation, but can reasonably be expected, as part of the agreement for having a plan, to undertake to pay the vendor's costs of checking it.

Swinfen Eady, J., also made certain comments of a general character, which appear to be, strictly, *obiter dicta*. He said that "I consider that, in all simple cases where a plan would assist the description, the purchaser has a right to have a plan on the conveyance. I am not, however, prepared to say that in every case the purchaser is entitled to have a description by plan. In a case of a considerable estate where the contract does not contain any plan, if a plan were to be insisted upon showing the abuttals, bridges, ditches, streams and boundaries at every point, the form of conveyance so far as regards the accuracy of the plan might lead to much litigation—that is—if the exact boundaries had to be defined at every point before the conveyance was agreed between the parties." This passage is curiously different from *Re Sparrow and James*, where Farwell, J., had allowed the purchaser to insist on a plan, without words making it for elucidation only, in exactly the sort of case where Swinfen Eady, J., suggested that the purchaser might have no right to insist on a plan. Some

reference had been made in *Re Sansom and Narbeth* to *Re Sparrow and James*, which had not then been reported, but the documents in that case were not all before Swinfen Eady, J., and, in particular, he seems not to have seen a report of the judgment of Farwell, J.

In *Re Sharman's Contract* [1936] Ch. 755, the younger Farwell, J., discussed those two cases. In *Re Sharman* the contract had provided for the sale of "The freehold property shortly described in the first schedule hereto." The first schedule called it "All that messuage or dwelling-house situate and being No. 27 Norfolk Square Brighton in the County of Sussex." No. 27 was in fact a house in a row with a forecourt and a small back yard. The purchaser submitted a draft conveyance with a plan, the operative words of the conveyance stating that the plan was "for the purpose of identification only and not by way of limitation or extension of grant." The vendor objected to the conveyance having any plan at all, even with those restrictive words, and proposed to convey "All that piece or parcel of land situate and being in the County Borough of Brighton bounded on the west by Norfolk Square, on the north by No. 28, Norfolk Square, on the east by No. 30, Norfolk Square and on the south by No. 26, Norfolk Square, together with the messuage or dwelling-house erected thereon or on some part thereof and known as 27, Norfolk Square." Farwell, J., held that this description was "perfectly ample and sufficient to identify the property" and that "no plan is a necessary part of such identification." In his judgment the learned judge criticised the head-note of the report of *Re Sansom and Narbeth*, which merely states: "In simple cases a purchaser is entitled to have land conveyed to him by reference to a plan on his conveyance"; as we have seen, Swinfen Eady, J., did not decide that. The learned judge then mentioned that the then current edition of "Williams" expressed the view that *Re Sparrow and James* was sounder than *Re Sansom and Narbeth*. But the learned judge said that "Williams" treated Swinfen Eady, J., as having decided more than he did in fact decide. He then proceeded: "The duty of the vendor is to convey the property under a description which is a sufficient and satisfactory identification of the land sold, and no doubt in many cases the most satisfactory and sufficient way of doing so is by means of a plan. If, in order that there shall be a sufficient and satisfactory identification of the land sold, a plan is necessary, then beyond all doubt, in my view, the vendor is bound to convey the land by reference to a plan. But, in my judgment, if it is possible to convey the property by a sufficient and satisfactory identification without a plan, and if the use of a plan throws upon the vendor an expense which is not necessary, because the plan itself is not necessary, then it is not right to say that a purchaser can insist upon a vendor going to that additional and unnecessary expense." On the facts before him the learned judge held that the vendor's proposed parcels clause was "ample and sufficient" and that therefore a plan was unnecessary.

Everything seems thus to depend upon the sufficiency of the proposed wording in the circumstances of each case. Thus a town property often has obvious boundaries, as was held in *Re Sharman*. But the difference between the facts of that case and those of *Re Sansom and Narbeth* was of the very slightest; with great respect, I suggest that the reasoning in *Re Sharman* is the sounder. It is difficult to understand the suggestion in *Re Sansom and Narbeth* that a plan is more usually necessary in simple cases than in difficult ones. Thus the description in words of an estate of 220 acres (as in *Re Sparrow and James*) would be very difficult to follow even if it were accurate. Again, much depends on the circumstances, one of which is the state of the prior title. The purchaser is entitled to have the land identified, and if what he purchases is a small piece cut out of a large one which has not been previously severed, a plan will be much more likely to be necessary than where the purchased land has had its own separate title for some time back. But Farwell, J., was clearly right in *Re Sharman* when he intimated that when words are an accurate and sufficient description the purchaser cannot force the vendor to agree to a plan "because the vendor could not be expected to agree to a plan which he had not had checked and verified by his own surveyor, and to do that would involve him in some expense which he was not bound to incur." In such a case, if the purchaser wants a plan he must make a special agreement that there shall be one, and, as part of that agreement, the vendor may reasonably ask the purchaser to pay all his costs occasioned by the plan.

LANDLORD AND TENANT NOTEBOOK

TRANSFER OF BURDENS

SECTION 2 (3) of the Increase of Rent, etc., Restrictions Act, 1920, provides: "Any transfer to a tenant of any burden or liability previously borne by the landlord shall, for the purpose of any Act, be treated as an alteration of rent . . ." and when I discussed *Winchester Court, Ltd.* v. *Miller* (1944), 60 T.L.R. 498 (C.A.), in the "Notebook" of 26th August last (88 SOL. J. 294), I concluded my article by suggesting that there might be some difference between the meaning of "burden" and that of "liability." For the case decided that landlords of a flat, the standard rent of which had been determined by a letting under which the tenant undertook to do all repairs, were entitled to increase the figure, when letting to another tenant who undertook repairs, fair wear and tear excepted, to an amount representing "cost of repair for which former tenants were liable." I made the comment that the modification of the covenant did not impose any liability on the landlords towards their tenant: for that a tenant "takes premises as they are: let him beware" (*Keates* v. *Cadogan* (1851), 20 L.J.C.P. 76) is well established, and in *Morgan* v. *Liverpool Corporation* [1927] 2 K.B. 131 (C.A.), Atkin, L.J.—true, in an *obiter* passage—examined at length and rejected the suggestion that the then right to increase rent when a landlord was "responsible" for repairs implied that he was so responsible if the tenant were not made liable by the terms of the tenancy. For this reason I suggested that the grounds of the judgment in *Winchester Court, Ltd.* v. *Miller* must have included a decision that a "burden" had been previously borne by the landlord and transferred to the tenant, and not a "liability" if that expression means a liability undertaken by one party to the tenancy agreement towards another.

A long series of cases in which covenants to pay outgoings have been interpreted shows that the word "burden" may describe an obligation towards a third party. Once it appeared that there was an intention that the landlord should "get his rent clear," the tendency was to interpret the covenant in his favour. This tendency may be said to have first manifested itself in *Brewster* v. *Kidgell* (1697), Carth. 438; but in more recent times two factors may be have said to have influenced development. One was the decision in *Tidswell* v. *Whitworth* (1867), L.R. 2 C.P. 326, when a tenant's covenant at "pay and discharge all taxes, rates, assessments, and impositions whatsoever, except property tax, which during the term should become payable *in respect of the demised premises*" was held not to apply to liability for the expenses of paving a street primarily chargeable, under a local Act, to the owner. The other was the increase in legislation under which similar charges, e.g., for drainage works, nuisance abatement, were made recoverable from persons interested. Consequently, as Sir F. H. Jeune put it in *Farlow* v. *Stevenson* [1900] 1 Ch. 128 (C.A.), conveyancers deliberately and of set purpose enlarged the words of the covenant for the express purpose of avoiding the *ratio decidendi* of *Tidswell* v. *Whitworth*; and this accounts for the apparent verbosity of the modern covenant to pay outgoings.

Thus, not only is care taken to mention both outgoings payable by any person or persons in respect of the premises as well as those charged on the premises, but an increasing

number of expressions connoting various types of outgoings, calculated to inspire the setters of crossword puzzles, have made their appearance: besides rates and taxes we have assessments, impositions, charges, expenses, duties, etc. The last mentioned has been held to be very wide indeed, e.g., in *Brett* v. *Rogers* [1897] 1 Q.B. 525, and in *Farlow* v. *Stevenson, supra*. This may or may not account for the dropping of the descriptive word "burdens," which, then spelt "burthens," was a feature of some of the older decisions: *Sweet* v. *Seager* (1857), 2 C.B. (N.S.) 119 (drainage), and *Re Roberson and Thorne* (1883), 47 J.P. 566 (execution of alterations to a theatre). It is true that "burdens" is not a word which occurs in Acts of Parliament providing for what is contemplated as a possible outgoing, but, as Byrne, J., said at first instance in *Farlow* v. *Stevenson, supra*, *Sweet* v. *Seager* was a case which had been constantly recognised in subsequent cases.

But besides these burdens in the shape of obligations to satisfy demands made by local authorities, landlords may find themselves liable, if they undertake or reserve the right to do repairs, to satisfy claims of third parties injured as a result of unrepaired defects. This proposition, as far as cases of actual undertaking of repairs is concerned, was once referable to *Payne* v. *Rogers* (1794), 2 H.Bl. 350, when the reasoning was that circuity of action was thereby avoided: not a very satisfactory decision, and *Wilchick* v. *Marks and Silverstone* [1934] 2 K.B. 34, placed the matter on a sounder legal basis. "The landlord has expressly reserved to himself the right to enter and do necessary repairs: why then should he be under no duty to make it safe for passers-by when he knows that the property is dangerous?" indicates the *ratio decidendi* of this case. (The "when he knows . . ." can now be left out: *Wringe* v. *Cohen* [1940] 1 K.B. 229 (C.A.) made latent defects and acts of trespassers the only defence, the qualification being subsequently approved in *Heap* v. *Ind Coope & Allsopp, Ltd.* [1940] 2 K.B. 476 (C.A.).)

It is true that these cases do not lay down that the tenant is not liable to the injured third party, for he is so liable as occupier: in *Wilchick* v. *Marks and Silverstone* judgment was given against both landlord and tenant, and the tenant's claim for indemnity against his landlord, based on the proposition that the latter was responsible to him for repairs, was dismissed.

But I submit that a landlord of controlled premises, the standard rent of which was fixed by a tenancy under which the landlord either covenanted or reserved the right to effect repairs, would, at all events if these included repairs affecting the safety of passers-by or of neighbouring property, transfer a burden to a tenant if he were to omit even a reservation from a new tenancy.

COMMON LAW COMMENTARY

NEGLIGENCE ON A HIRED WORKMAN

WHERE one employer hires machinery and operators from another, and the operators are negligent, the regular employer of the operators is faced with the task of proving that the hirers had such control over the acts of the operators at the time of the accident as to become liable, as employers, for the negligence.

In *Nicholas* v. *F. J. Sparkes & Sons* (unreported, but noted at 61 T.L.R. 311), the plaintiff was injured as the result of the negligent driving of a lorry owned by the defendants, but hired, with the driver, on the terms of a course of business, to C., Ltd., the plaintiff's employers.

One of the best known cases on this subject is *Donovan* v. *Laing* [1893] 1 Q.B. 629. There a crane and its operator were hired by J. & Co. from the defendants, but the operator was bound to work the crane according to the orders and under the entire and absolute control of J. & Co. The defendants selected the man and paid his wages, "and these are circumstances which, if nothing else intervened, would be strong to show that he was the servant of the defendants" (*per* Lord Esher, M.R.). But as to the working of the crane he was no longer the defendants' servant, and if J. & Co. had seen the man misconducting himself in working the crane or disobeying their orders they would have had the right to discharge him from that employment. Bowen, L.J., said: "We have only to consider in whose employment the man was when the acts complained of were done, in this sense, that by the employer is meant the person who has a right at the moment to control the doing of the act," following *Sadler* v. *Henlock*, 4 E. & B. 570. There are two ways in which a contractor may employ his men and machines: he may contract to do the work or to place the men and machines under the control of another.

In *Nicholas's* case the driver drove the lorry negligently in C., Ltd.'s yard. The Court of Appeal held that "if he drives negligently and injures somebody, it is his regular employer who is responsible and not the hirer of the carriage, because the hirer has no right, as a term of his contract of hire, to interfere with the driver in the exercise of his art." The general employers had not, therefore, discharged the burden of proof lying on them, and were held liable.

The Court of Appeal delivered a composite judgment in the appeals of *Dowd* v. *W. H. Boase & Co., Ltd.* (1945), 61 T.L.R. 308, and *McFarlane* v. *Coggins & Griffiths (Liverpool) Ltd. ibid.*, as the issues were substantially similar.

In each case the hirers had a considerable measure of control over the negligent workman. They could tell him where to go, what to carry and where to deliver. But as far as the actual driving of the vehicles was concerned the workman had entire control. "The control of the vehicle, in the sense of the manipulation of the controls, must be left to the driver." The court found that in each case the regular employers had failed to establish that the hirers had such control of the acts of the workman, at the time of the accident, as to become liable as employers for his negligence. They applied the test laid down in *Nicholas's* case: "In the doing of the negligent act, was the workman exercising the discretion given him by his general employer or was he obeying (or discharging) a specific order of the party for whom, on his employer's direction, he was using the vehicle or other instrument?"

Several judges have found it difficult to reconcile *Donovan's* case with *M'Cartan* v. *Belfast Harbour Commissioners* [1911] 2 I.R. 143, decided by the House of Lords; but *Donovan's* case was approved by the House in *Century Insurance Co., Ltd.* v. *Northern Ireland Transport Board* [1942] A.C. 509, besides being expressly approved and distinguished in *M'Cartan's* case. In *M'Cartan's* case the master of a vessel hired a crane and operator from the defendants. The crane bucket was filled by the hirer's servants, who also directed the operator to raise and lower the bucket as well as to swing the jib of the crane round. But the operator regulated the speed of the crane's movements, and alone worked the machine. The plaintiff was injured when the bucket descended with great speed and violence. The defendants were held responsible. This illustrates the remarks of Lord Loreburn, L.C.: "It is an endless and unprofitable task to compare the details of one case with the details of another . . . Given the rule of law, the facts of each case must be independently considered."

WHAT ARE "GOODS" AND WHAT ARE "DOCUMENTS"?

See the separate article on *Hill* v. *R.* (1945), 61 T.L.R. 294, p. 170 of this issue.

Mr. Richard Reader Harris, Jr., barrister-at-law, has been adopted as prospective Conservative candidate for Central Hackney. He was called by Gray's Inn in 1941.

At the monthly meeting of the directors of the Solicitors' Benevolent Association held on the 4th April, 1945, grants amounting to £2,596 10s. were made to thirty-eight beneficiaries.

TO-DAY AND YESTERDAY

LEGAL CALENDAR

April 9.—On the 9th April, 1850, Lord Campbell, lately appointed Lord Chief Justice and just returned from the Midland Circuit, noted in his diary: "I have returned from the circuit having made my debut as a judge . . . The most magnificent spectacle was the procession from the great west door of the cathedral at Lincoln to the choir, attended by the Bishop and the clergy, the Chief Justice ermined, with his collar of SS, in 'peacock state' . . . I suffered from nothing except wearing a full-bottomed wig, having been disencumbered of it for nine years. My head ached and my faculties were cramped by the pressure of it, but I hope that use will again reconcile me to this barbarous encumbrance."

April 10.—Towards the end of December, 1836, a bricklayer came upon a woman's trunk wrapped in sacking in the Edgware Road. Later the legs were discovered in a ditch near Camberwell. The head was found in the Regent's Canal and preserved in spirits for identification. After a broker, residing in Goodge Street, had recognised the remains as those of his sister, Hannah Brown, who had vanished on Christmas Eve, the police got on the track of a man named James Greenacre, whom she had been about to marry. They ran him to earth at his lodgings at No. 1, St. Alban's Place, Kennington Road, finding him in bed with a woman named Sarah Gale. The couple were to have sailed for America next day, and in their boxes were found several articles belonging to the deceased, including parts of an old dress exactly corresponding with the pieces of material in which the body had been wrapped. Greenacre was charged with murder and Sarah Gale with being an accessory after the fact, and their trial opened at the Old Bailey, before Chief Justice Tindal, Mr. Justice Coleridge and Mr. Justice Coltman, on the 10th April, 1837. They were both convicted and the man was condemned to death and the woman to transportation for life.

April 11.—Here is the headstone inscription on a grave in the churchyard at Presteign: "To the memory of Mary Morgan, who young and beautiful, endowed with a good understanding and disposition, but unenlightened by the sacred truths of Christianity, became the victim of sin and shame and was condemned to an ignominious death on the 11th of April, 1805, for the murder of her bastard child. Rous'd to a first sense of guilt and remorse by the eloquent and humane exertions of her benevolent judge, Mr. Justice Hardinge, she underwent the Sentence of the Law on the following Thursday with unfeigned repentance and a fervent hope of forgiveness through the merits of a redeeming Intercessor. This stone is erected not merely to perpetuate the remembrance of a departed penitent, but to remind the living of the frailty of human nature when unsupported by Religion." According to local tradition, as found by Lord Justice MacKinnon, she had been seduced by a man who was on the grand jury that found a true bill for murder against her. Further, though "her benevolent judge" had power to reprieve her and recommend her to mercy, he left her for execution a week after sentence, so that her counsel riding post haste to London for a reprieve, returned with it an hour too late.

April 12.—In 1829 Esther Hibner, of Platt Terrace, Parsons Road, was convicted at the Old Bailey of the murder of her ten-year-old apprentice, Frances Colpitt, by inhuman ill-treatment. The child, a pauper sent to her by the Parish of St. Martin's, to learn the business of fabricating tambour work, was one of three who died from the cruel usage. Three other apprentices gave evidence of their mistress's practices. She had made the deceased work from three or four in the morning till eleven at night. The children she employed often had to sleep on the kitchen floor with only an old rug for covering. They were not allowed fresh air or exercise and were locked in the kitchen on Sundays. They were starved and fed only on a cup of milk and a slice of bread a day or else a few potatoes. They were often beaten, and Frances was not spared, even when she was dying. There was medical evidence that her feet had mortified and that the immediate cause of her death was the bursting of an abscess on her lungs, brought on by ill-treatment. On Sunday, the 12th April, Mrs. Hibner, after a last interview with her daughter, went into the prison yard. There the turnkey noticed something suspicious in her behaviour and found that she had wounded herself in the neck with a knife. She became so violent that she had to be put into a strait-waistcoat to prevent her from tearing off the bandages. She afterwards said she had meant but to delay her execution.

April 13.—On the following day, the 13th April, she was hanged before a vociferous crowd composed mostly of women, dying instantaneously without a struggle. She refused to walk to the scaffold and had to be carried by two men. She wore a white bed-gown over her black dress and the sallowness of her complexion gave her an unearthly aspect. On the same day her daughter and her assistant, Ann Robinson, who had previously been acquitted of murder, were tried for assaulting the children. They were convicted and condemned respectively to twelve and four months' imprisonment.

April 14.—On the 14th April, 1852, Lord Campbell noted in his diary: "I have gone another circuit . . . At Aylesbury, my first assize town, I had a brush with a Roman Catholic sheriff . . . He had written to me that he did not mean to appoint any chaplain, and I had told him I wished him to do nothing which should be at all disagreeable to him on the score of religion. When I first met him, and we entered his carriage while the trumpeters were blowing I was surprised to see a person jump in after us in the costume of a Roman Catholic priest. Before I had any time to collect my thoughts, the door was shut and the horses moved on . . . I intimated to the sheriff that, although he was not bound to appoint a Protestant chaplain for us, and he was at liberty to appoint a Roman Catholic priest to minister to himself, I could not recognise this priest as the person who was to officiate as chaplain to the judges of assize, and therefore I must decline his presence in the carriage, and he must not sit by me in his canonicals in court . . ."

April 15.—Towards the end of 1814 Admiral Brown died suddenly on the Jamaica station, and it was some months before Admiral Douglas, who was appointed his successor, arrived to take over. There was subsequently a dispute whether the Admiralty had authorised Admiral Sir Alexander Cochrane, then on the North American station, to assume command in the interval, the practical question being whether he was entitled to the flag share of one-eighth in certain prizes taken by the fleet on the Jamaica station. On the 15th April, 1823, Lord Stowell gave judgment against his claim.

Lord Glenavy.

Lord Glenavy, who has just been elected Governor of the Bank of Ireland, is the son of one of the last Lord Chancellors of Ireland, who as James Campbell had been in the first rank of the leaders of the bar. For posterity, however, advocates live chiefly in anecdotes, and the one best remembered concerning Campbell relates to an occasion when in stating a case to a jury on behalf of a plaintiff he affected to be moved to tears (though out of robes his sensibility was not greater than another man's). It was in opening the defendant's case that his opponent, Tim Healy, made his famous comment: "My friend was actually moved to tears by the wrongs of his client—the greatest miracle since Moses struck the rock!"

COUNTY COURT LETTER

Part Possession Orders

IN *Dinjian* v. *Bankhead*, at Stow-on-the-Wold County Court, the claim was for possession of a dwelling-house and premises formerly known as "The Hunt Café." The plaintiff's case was that the ground floor comprised "The Cotswold Book Shop," over which was a sitting room, kitchen, bathroom, three bedrooms and two attics, let to the defendant in 1937 at £45 per annum. Being now seventy-four, the plaintiff wished to live in her own house, and had given the defendant notice to quit in September, 1944. Since September, 1943, the defendant had lived on the business premises of a friend, using the show-room as a sitting room after business hours. The friend was not prepared to continue this arrangement. The plaintiff had owned the café since 1934, and the defendant had sub-let the shop at £27 per annum. The defendant only occupied the sitting room and one bedroom, and let the others off at 3s. per night to guests from a local hotel. The defendant's case was that her right hip was fractured in 1932 and her left hip in 1933. She had difficulty in getting about, and had been unable to find alternative accommodation. His Honour Judge Forbes made an order in favour of the plaintiff for possession of the whole of the premises—the defendant to have let to her a part of the premises and to share the kitchen and bathroom at £7 per annum, such tenancy being agreed to be within the Rent Acts. No order was made as to costs.

In *Medelton* v. *Woodhead*, at Rugby County Court, the claim was for possession of a house and £1 15s. 9d. mesne profits. The plaintiff offered part of the house as alternative accommodation. His Honour Judge Forbes made an order for possession in one month on the plaintiff undertaking to let to the defendant the front room downstairs and front bedroom, with a licence to use the gas stove and kitchen sink, also the lavatory and bathroom at all reasonable times, it being agreed that the tenancy of the two rooms was within the Rent Acts. No order was made as to costs.

POINTS IN PRACTICE

Questions from solicitors who are REGISTERED ANNUAL SUBSCRIBERS are answered, without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 88–90, Chancery Lane, W.C.2, and contain the name and address of the subscriber, and a stamped addressed envelope.

Right of Vendor to retain Documents of Title

Q. A, in her lifetime, owned under one title deed properties X and Y adjacent to each other. She sold X to B, who executed a mortgage on the property in favour of A, and this is still subsisting. A dies, and her executors have agreed to sell property Y to B. B's solicitors contend B is entitled to possession of the title deed, despite the fact that the mortgage remains, and quote s. 45 (9) of the L.P.A., 1925. We are acting for the executors, and maintain that they are entitled to retain the title deed until discharge of B's mortgage, but will give an acknowledgment for production. Please advise.

A. The opinion is given that A's executors have no right to retain the documents as they do not "retain any part of the land to which the documents relate," to use the words of s. 45 (9) (*a*). This opinion is given with a certain amount of hesitation, as it would appear that under the law prior to L.P.A., 1925, North, J., would have held a contrary view to that here given (see *Re Williams and the Duchess of Newcastle*, otherwise reported as *Fuller and Leathley's Contract* [1897] 2 Ch. 144). The alteration in wording of the present clause, however, prompts the opinion here given.

Redeeming Mortgage—Rent Restriction Acts

Q. In 1940 notice was given by mortgagees calling in a mortgage. Mortgagor claimed protection of the emergency provisions, and no steps were taken to enforce repayment. The mortgagor is now in a position to repay and wishes to be advised whether he must now pay the mortgagees interest in lieu of notice, or whether he is entitled to redeem on payment of interest to date of repayment. Is there any decided authority on this point?

A. We do not know of any decision on the matter, but express the opinion that as the mortgagor, in effect, claimed that the Acts made the mortgagees' notice nugatory, he (the mortgagor) cannot now rely on the notice, but must himself give the six months' notice, or pay interest in lieu of notice, unless the mortgagees consent to waive their rights.

NOTES OF CASES

HOUSE OF LORDS

F.P.H. Finance Trust, Ltd. (in Liquidation) *v.* Inland Revenue Commissioners

Lord Russell of Killowen, Lord Macmillan, Lord Porter, Lord Simonds, 22nd March, 1945

Revenue—Sur-tax—Company—Apportionment of income among members—"Respective interests of members"—Basis of apportionment—Finance Act, 1922 (12 & 13 *Geo.* 5, *c.* 17), *s.* 21.

Appeal from the Court of Appeal.

The Finance Act, 1922, by s. 21 (1), provides that: "Where it appears to the Special Commissioners that any company to which this section applies has not, . . . distributed to its members in such manner as to render the amount liable to be included in the statements to be made by the members of the company of their total income for the purposes of super-tax, a reasonable part of its actual income . . . the Commissioners may . . . direct that for purposes of assessment to super-tax the said income of the company shall, . . . be deemed to be the income of its members; and the amount shall be apportioned among the members." The First Schedule, para. 8, provides: "The apportionment of the actual income from all sources of the company shall be made by the Special Commissioners in accordance with the respective interests of the members. . . ." The appellant company, a company within s. 21, on the 27th November, 1936, reorganised its share capital, which was increased to £11,000, consisting of 10,000 £1 preference shares and 1,000 £1 ordinary shares. The preference shares were entitled to a fixed cumulative preference dividend of 5 per cent., and in a winding up to the whole of the surplus assets after payment to the ordinary shareholders of the amounts paid upon their shares. The ordinary shares were entitled as regards profits (subject to the payment to the preference shareholders) to have the whole of the sums distributed as dividend by the company, and in a winding up to a priority payment of £1,000, but with no further right to participate in the assets of the company. The ordinary shares were all held by W, Ltd., L held 3,334 preference shares, and her daughters, M and C, 3,333 shares each. On 12th October, 1937, the company adopted the accounts for the previous twenty-one months, from 1st April, 1935, to 31st December, 1936, which showed a profit of £645,192. A dividend of 10 per cent. was paid on the ordinary shares and of 5 per cent. on the preference shares. On the 1st April, 1938, the company went into liquidation. In the winding up £1,000 was paid on the ordinary shares and the balance of the assets were distributed between L and her daughters. On the 2nd September, 1940, the Commissioners issued a direction under s. 21 of the Act of 1922, that, for the purpose of sur-tax, the income of the company from the 1st April, 1935 to 31st December, 1936, should be deemed to be the income of the members, and they apportioned the actual income, computed at £858,817, as follows: to W, Ltd., £100; to L, £286,296 5s.; and to each of her daughters, £286,210 7s. 6d. The company appealed. The Special Commissioners discharged the apportionment. Wrottesley, J., reversed their decision, and his decision was affirmed by the Court of Appeal. The company appealed.

LORD RUSSELL OF KILLOWEN said that the company contended that the Commissioners in apportioning the amount of the income in question among the members "in accordance with the respective interests of the members" were bound to apportion it among those members who would have received it and in the proportions in which they would have received it in accordance with their rights—as defined in the memorandum and articles of association. The result would be that only a small part of the fund would be apportioned to L and her daughters and the balance, being substantially the whole fund, would be apportioned to W, Ltd. The Commissioners attributed a wider meaning to the words "the interests of the members," and they contended that they should consider the whole position of the members under the company's constitution. The contention of the company placed too narrow a construction upon the wide and comprehensive words used. The Commissioners in apportioning the income should determine who were the persons of whom it could be said (1) that they fell within the definition; (2) that they were the persons who, in view of all their interests in the company, were the persons really interested in the income in question and in what proportions. The Commissioners might properly endeavour to make an apportionment appropriate to their interests to those members for whose benefit in relation to the avoidance of sur-tax the distribution of income had obviously been withheld. They might well ask (1) upon whom did it depend whether or not

the income should be withheld from distribution; and (2) for whose benefit was the distribution withheld, or (in other words) who would avoid payment of sur-tax by the withholding? If the same individuals figured in each answer, they were the persons who, according to their interests in the company, owned the paramount beneficial interest in the fund in question. Applying this view, both questions admitted of only one answer, viz., L. and her daughters. The decision in *Inland Revenue Commissioners* v. *Drew*, 17 Tax Cas. 140, was not inconsistent with this view. The appeal should be dismissed.

The other noble and learned lords agreed in dismissing the appeal.

COUNSEL: *Millard Tucker*, K.C., *Wynn Parry*, K.C., *Terence Donovan* and *Heyworth Talbot*; *The Solicitor-General* (Sir David Maxwell Fyfe, K.C.), *J. H. Stamp* and *R. P. Hills*.

SOLICITORS: *Birkbeck, Julius, Edwards & Co.*; *Solicitor of Inland Revenue*.

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

COURT OF APPEAL

In re **Cochrane; Cochrane** *v.* **Turner**

Scott and Morton, L.JJ., and Cohen, J. 22nd March, 1945

Revenue—Estate duty—Marriage settlement—Funds settled by husband on wife for life—Remainder to husband for life—Income to be expended by wife on household expenses—Death of husband—Liability of funds to duty—Finance Act, 1894 (57 *and* 58 *Vict., c.* 30), *s.* 2 (1) (*c*).

Appeal from a decision of Uthwatt, J., 89 SOL. J. 94.

By a marriage settlement dated 23rd September, 1884, the husband transferred a trust fund to trustees upon trust to pay the income to the wife during her life and after her death for the husband for life, with ultimate trusts for all the children of the husband. The settlement contained the following provision: "And it is also agreed and declared that the income arising from the said trust fund to be paid by the trustees or trustee to the wife during her life shall be expended by her on current household expenses and management." The marriage lasted for some fifty-seven years until the death of the husband in 1941. Since 1918 at latest the whole income of the trust fund, amounting to about £400 a year, had been applied by the wife for her own personal purposes. The husband paid to her in addition £3,000 a year, which was applied by her in paying the indoor expenses of the matrimonial home. This summons was taken out asking whether, on the true construction of s. 2 (1) (*c*) of the Finance Act, 1894, the trustees were accountable for estate duty in respect of the settled funds on the footing that the funds passed, or were deemed to pass on the husband's death. Uthwatt, J., held the settlement reserved to the husband an interest for life within s. 2 (1) (*c*) and estate duty was payable on his death. The trustees and a beneficiary appealed.

MORTON, L.J., delivering the judgment of the court, said the income provision was a most unusual one. The first question was whether an interest was reserved to the husband in the trust fund. To answer this question it was necessary to construe the settlement. The provision imposed a trust on the wife to expend the whole income on "current household expenses and management." The ambit of the expenditure was reasonably well defined by those words. They agreed with Uthwatt, J., that this trust gave to the husband an "interest" in the trust fund. The word "interest" had been given a wide construction (*Tennant* v. *Lord Advocate* [1939] A.C. 207, at p. 213; *Attorney-General* v. *Farrell* [1931] 1 K.B. 81). They had next to consider whether the interest reserved to the husband was reserved to him for his life. In their judgment this question must be answered in the affirmative. The result was that estate duty was payable on the death of the husband unless it were established that the interest of the husband was abandoned or released by him. They found nothing in the evidence which would preclude the husband from saying, "I now insist on the income of the trust fund being applied towards current household expenses." The result was that, as the husband had thought fit to reserve to himself an interest in the trust fund for the whole of his life, the appeal failed.

COUNSEL: *Roxburgh*, K.C., and *H. A. Rose*; *J. H. Stamp*.

SOLICITORS: *Bentleys, Stokes & Lowless*, for *Belk & Smith*, Middlesbrough; *Solicitor of Inland Revenue*.

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

CHANCERY DIVISION

Barber *v.* **Wolfe**

Romer, J. 13th February, 1945

Sale of land—Specific performance ordered—Failure to complete—Rescission—Whether plaintiff vendor entitled to damages.

Motion.

On the 19th June, 1944, in a vendor's action, a decree for specific performance of a contract for the sale of land was made directing the usual account, inquiries and payments. The purchaser failed to complete, and by this motion the vendor asked for rescission of the contract, forfeiture of the deposit paid and £142 for mesne profits, on the ground that the purchaser, who also had been his tenant, had remained in possession for some time after the decree.

ROMER, J., said that the plaintiff's first contention was that he was entitled to the sum of £142 under the contract. However, the result of rescinding the contract was for this purpose at least to rescind it *ab initio*, with the result that the plaintiff was not entitled to the moneys payable under any particular clause. It was then said that the plaintiff was entitled to something in the nature of mesne profits or occupation rent by way of damages. The defendant had remained in possession of the property and let someone else live there, but she did not receive any rents. If she had, she would have been liable to account for them. The question was whether she was bound to pay something in the nature of an occupation rent. He thought that in a vendor's action for specific performance, if a vendor took a decree and that decree was worked out but the purchaser failed to complete, the vendor was entitled to come back to the court and ask for the contract to be rescinded; but if he took that course, he could not at the same time ask for damages for breach of the contract he was asking the court to rescind. That rule was well established (*Hall* v. *Burnell* [1911] 2 Ch. 551). It was suggested that, apart from damages, it would be right to award against the purchaser an occupation rent. In a case such as this, the plaintiff was not entitled to charge such rent; if it could be proved that the defendant had received rents and profits, an account would be directed, and the plaintiff would recover them as moneys received by the defendant for the vendor's own benefit. The claim for mesne profits must be omitted from the order.

COUNSEL: *C. L. Fawell*; *A. G. N. Cross*.

SOLICITORS: *Kingsford, Dorman & Co.*; *Hasties*.

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

OBITUARY

MR. H. J. FISHER

Mr. Horace James Fisher, solicitor, of Messrs. Horace Fisher and Cole, solicitors, of Oxford, died on Wednesday, 4th April, aged eighty. He was admitted in 1890.

MR. A. F. FRASER

Mr. Arnold Frederick Fraser, solicitor, of Messrs. Fraser and Fraser, solicitors, of Nottingham, died recently aged fifty-four. He was admitted in 1913.

MR. S. HEMINGWAY.

Mr. Stanley Hemingway, solicitor, of Messrs. Marcy, Hemingway and Sons, solicitors, of Bewdley, Worcestershire, died on Thursday, 5th April, aged seventy-seven. He was admitted in 1889.

MR. J. L. MOORE

Mr. John Lee Moore, solicitor, of Messrs. Burton, Moore and Crawshaw, solicitors, of Great Yarmouth, Norfolk, died on Sunday, 25th March, aged sixty-seven. He was admitted in 1902.

MR. F. H. G. TYNDALL

Mr. Frederick Henry Gardner Tyndall, solicitor, of Messrs. Tyndall, Nicholls & Hadfield, solicitors, of Birmingham, died on Sunday, 1st April, aged seventy-three. He was admitted in 1894.

PARLIAMENTARY NEWS

HOUSE OF LORDS

MINISTRY OF FUEL AND POWER BILL [H.C.].
Read Third Time. [29th March.

STAFFORDSHIRE POTTERIES STIPENDIARY JUSTICE BILL [H.C.].
Read Second Time. [29th March.

HOUSE OF COMMONS

LOCAL GOVERNMENT (BOUNDARY COMMISSION) BILL [H.C.].
To provide for the establishment of a Local Government Boundary Commission; and to make further provision for the alteration of local government areas in England and Wales exclusive of London.
Read First Time. [29th March.

TRADE WITH FRANCE

The Treasury and Board of Trade draw attention to the provisions of—

(*a*) the Trading with the Enemy (Authorisation) (France and Monaco) Order, 1945, dated 29th March, 1945 (S.R. & O., 1945, No. 348) ;

(*b*) the Trading with the Enemy (Transfer of Negotiable Instruments, etc.) (France and Monaco) Order, 1945, dated 29th March, 1945 (S.R. & O., 1945, No. 347) ;

(*c*) the Trading with the Enemy (Custodian) (Amendment) (France and Monaco) Order, 1945, dated 29th March, 1945 (S.R. & O., 1945, No. 348).

The general effect of these orders is that those provisions of the Trading with the Enemy Act, 1939, and the Custodian Order, 1939, which remained in force after the liberation of Metropolitan France and the Principality of Monaco now cease to apply *in respect of money and property accruing on or after 29th March, 1945, to persons resident in that territory*. Money which becomes payable to persons resident in France (or to certain concerns controlled by such persons) on or after 29th March, 1945, and property coming into their ownership on or after 29th March, 1945, cease to be subject to the control of the Custodian of Enemy Property.

Money which has become due before 29th March, 1945, but has not yet been paid or held to the order of the Custodian, remains payable to the Custodian. Similarly, property in the United Kingdom which before 29th March, 1945, was subject to report to the Custodian remains property to which art. 4 of the Trading with the Enemy (Custodian) Order, 1939, still applies and must not be parted with or dealt with without the consent of the Board of Trade.

The orders also lift the application of ss. 4 and 5 of the Trading with the Enemy Act, 1939, in respect of certain transactions which may be effected on or after 29th March, 1945. The transactions which are now sanctioned comprise the assignment of choses in action, the transfer of negotiable instruments, the transfer of coupons or other securities transferable by delivery which are not negotiable instruments, and the transfer of United Kingdom registered securities which have been acquired on or after 29th March, 1945.

The obstacles in the way of trading with persons in France which arose out of the Trading with the Enemy legislation have now been removed. Banking channels between the two countries are now restored, subject to the operation of the Defence (Finance) Regulations, about which any persons intending to have transactions with France should consult their bankers. Attention is drawn to the necessity for compliance with other regulations, e.g., Defence (Finance) Regulations, Export and Import licensing and the parallel regulations of the French Government. The actual undertaking of commercial transactions must depend on the availability of the necessary physical facilities, e.g., supply of goods, transport, etc.

The conclusion of the Anglo-French Financial Agreement (Cmd. 6613) and the issue of S.R. & O., Nos. 346, 347 and 348 of 1945, whereby current trade with France has been freed from restrictions imposed by the Trading with the Enemy Act, 1939, mean that banking and commercial relations with France can be renewed and that payment can be made on new transactions entered into after 29th March, 1945, without obligation to pay to the Custodian of Enemy Property.

The Board of Trade consequently wish to draw the attention of traders to the general conditions which now obtain in respect of trading with France.

Remittances from France in respect of commercial transactions require the permission of the French Foreign Exchange Control, and it would normally be the concern of the French importer to obtain such permission. There are no restrictions on the receipt of money from France through banking channels in respect of commercial transactions. Franc balances must, however, be offered for sale to the Treasury and this should be done through a bank.

For the present, however, exports to France will be subject to certain limiting factors, both as to the type of goods required by the French authorities, and the methods of importing adopted by them. The primary French needs will be for goods needed for the reconstruction of their economy. To ensure that the limited shipping and internal transport available are put to the best possible use to relieve urgent and vital demands, the French Government finds it necessary for the present to limit imports from the United Kingdom to those goods included in the French import programme bought on Government account by their purchasing missions here. An order from the French Purchasing Mission in London implies that the necessary freight and currency will be made available.

In general, no useful purpose will be served by British exporters applying direct to the French purchasing mission in London. It is for the importers in France to ask, through their trade organisations, for the inclusion of their requirements in the French import programme. It may, however, be useful for British exporters to get in touch with their customers in France and give them all relevant information as to their possibilities of export to France. Goods subject to United Kingdom export control to all destinations, even though purchased by the French Purchasing Mission, will, of course, require export licences, applications for which should be made to Export Licensing Department, 4, Fenchurch Avenue, E.C.3.

Remittances to France in respect of imports from that country would require the permission of the United Kingdom Exchange Control and United Kingdom importers should apply to their bankers. At present, imports from France are limited to goods imported on Government account. When arrangements have been made for imports of any types of goods from France on private account, traders will be informed in the usual manner. Meanwhile no applications for licences to import goods from France should be made to the Import Licensing Department.

WAR LEGISLATION

Statutory Rules and Orders, 1945

E.P. 337. **Cinematograph Film** (Control) Order. March 28.

E.P. 332. **Closed Ports.** United Kingdom (Closed Ports) Revocation Order. March 20.

E.P. 336. **Coal Distribution** Order, 1943, Special Direction (London Region) (Restriction of Supplies) No. 3. March 24.

No. 309. **Customs.** Additional Import Duties (No. 1) Order. March 27.

No. 308. Customs. Import Duties (Exemptions) (No. 1) Order. March 27.

E.P. 342. **Finance.** Regulation of Payments (French Franc Area) Order. March 28.

No. 365. **Income Tax** (Employments) (No. 3) Regulations. March 28.

E.P. 343. **Manufacture of Lasts** Order. March 28.

No. 316. **National Insurance,** Minister of (Health Insurance and Pensions) Order in Council. March 21.

No. 317. National Insurance, Minister of. Unemployment Insurance and Assistance Order in Council. March 21.

No. 310. **National Registration** (War Workers) Regulations. March 10.

No. 351. **Police,** England and Wales Regulations. March 27.

No. 352. Police, England and Wales (Women) Regulations. March 27.

No. 341. **Railway.** Order, Feb. 20, modifying Orders determining reductions to be made from standard charges where damageable merchandise is carried by Railway under Owner's Risk conditions.

No. 346. **Trading with the Enemy** (Authorisation) (France and Monaco) Order. March 29.

No. 348. Trading with the Enemy (Custodian) (Amendment) (France and Monaco) Order. March 29.

No. 347. Trading with the Enemy (Transfer of Negotiable Instruments, etc. (France and Monaco) Order. March 29.

No. 338. **Unemployment Insurance** (Emergency Powers) (Amendment) Regulations. March 23.

No. 332. **Visiting Forces** (British Commonwealth) Royal Canadian Air Force (Amendment) Order in Council. March 21.

Provisional Rules and Orders, 1945

Road Vehicles (Registration and Licensing) (Amendment) Provisional Regulations. March 20.

[Any of the above may be obtained from the Publishing Department, S.L.S.S., Ltd., 88/90, Chancery Lane, London, W.C.2]

COURT PAPERS

SUPREME COURT OF JUDICATURE

EASTER SITTINGS, 1945.

HIGH COURT OF JUSTICE—CHANCERY DIVISION

Mr. Justice Uthwatt

Such business as may from time to time be notified.

GROUP A

Mr. Justice COHEN

Mr. Justice COHEN will sit for the disposal of the Witness List.

Mondays—Companies Business.

Mr. Justice VAISEY

Mondays—Chamber Summonses.
Tuesdays—Motions, Short Causes, Petitions, Procedure Summonses, Further Considerations and Adjourned Summonses.
Wednesdays—Adjourned Summonses.
Thursdays—Adjourned Summonses.
Fridays—Motions and Adjourned Summonses.
Lancashire Business will be taken on Thursdays, 12th and 26th April and 10th May.

GROUP B

Mr. Justice EVERSHED

Mondays—Chamber Summonses.
Tuesdays—Motions, Short Causes, Petitions, Procedure Summonses, Further Considerations and Adjourned Summonses.
Wednesdays—Adjourned Summonses.
Thursdays—Adjourned Summonses.
Fridays—Motions and Adjourned Summonses.

Mr. Justice ROMER

Mr. Justice ROMER will sit for the disposal of the Witness List.

Mondays—Bankruptcy Business.
Bankruptcy Motions will be heard on Mondays, 16th April and 7th May.
Bankruptcy Judgment Summonses will be heard on Monday, 23rd April and 14th May.
A Divisional Court in Bankruptcy will sit on Monday, 30th April.

COURT OF APPEAL AND HIGH COURT OF JUSTICE—CHANCERY DIVISION

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota.	Appeal Court I.	Mr. Justice Uthwatt.
Mon. April 16	Mr. Blaker	Mr. Hay	Mr. Farr
Tues., 17	Andrews	Farr	Blaker
Wed., 18	Jones	Blaker	Andrews
Thurs., 19	Reader	Andrews	Jones
Fri., 20	Hay	Jones	Reader
Sat., 21	Farr	Reader	Hay

Date.	Group A. Mr. Justice Cohen. *Witness.*	Mr. Justice Vaisey. *Non-Witness.*	Group B. Mr. Justice Evershed. *Non-Witness.*	Mr. Justice Romer. *Witness.*
Mon., April 16	Mr. Jones	Mr. Reader	Mr. Andrews	Mr. Blaker
Tues., 17	Reader	Hay	Jones	Andrews
Wed. 18	Hay	Farr	Reader	Jones
Thurs., 19	Farr	Blaker	Hay	Reader
Fri., 20	Blaker	Andrews	Farr	Hay
Sat., 21	Andrews	Jones	Blaker	Farr

NOTES AND NEWS

Honours and Appointments

The Lord Chancellor has appointed Mr. IAN DOUGLAS MCILWRAITH to be a joint Registrar of the Westminster and Windsor County Courts as from the 1st April, 1945.

Mr. HAROLD MCKENNA has been appointed Chairman, and Mr. LAWRENCE RIVERS DUNNE, M.C., Deputy Chairman, of the Berkshire Quarter Sessions.

Mr. WILLIAM STEEPLE, assistant solicitor to Hampstead Borough Council, has been appointed Deputy Town Clerk of Swindon. Mr. Steeple was admitted in 1937.

Notes

At Middlesex Sessions recently, Dr. E. A. Epplewhite, for the Middlesex Justices' Luncheon Club, presented to Mr. St. John G. Micklethwait, on his retirement as chairman, a loving cup dated 1812, the work of Samuel Hennell.

Dr. Goadby, the Editor of the *Journal of the Society of Comparative Legislation*, has been obliged to resign owing to ill health. The committee record in their annual report their high appreciation of the work which he has done in that capacity for the past twelve years. Sir Arnold McNair, Professor-designate of Comparative Law in the University of Cambridge, has accepted their invitation to become Editor of the Journal, in which he will be assisted by Professor Gutteridge, who for that purpose relinquishes the post of Joint Honorary Secretary, after having held it for more than twenty years. The *Review of Legislation* which is now a separate publication, though included within the one subscription, will be edited by Sir Cecil Carr, Counsel to the Speaker of the House of Commons.

STOCK EXCHANGE PRICES OF CERTAIN TRUSTEE SECURITIES

Bank Rate (26th October, 1939) 2%

	Div. Months	Middle Price 9th April 1945	Flat Interest Yield £ s. d.	‡ Approximate Yield with redemption £ s. d.
British Government Securities				
Consols 4% 1957 or after	FA	111½	3 11 9	2 17 1
Consols 2½%	JAJO	83¼	3 0 1	—
War Loan 3% 1955–59	AO	103	2 18 3	2 13 0
War Loan 3½% 1952 or after	JD	105⅝	3 6 3	2 13 2
Funding 4% Loan 1960–90	MN	114	3 10 2	2 16 9
Funding 3% Loan 1959–69	AO	100¾	2 19 6	2 18 7
Funding 2¾% Loan 1952–57	JD	102¼	2 13 9	2 7 11
Funding 2½% Loan 1956–61	AO	98⅜	2 10 7	2 11 11
Victory 4% Loan Av. life 18 years	MS	114	3 10 2	2 19 8
Conversion 3½% Loan 1961 or after	AO	106½	3 5 9	2 19 8
Conversion 3% Loan 1948–53	MS	102⅜	2 18 4	2 0 0
National Defence Loan 3% 1954–58	JJ	103½	2 18 1	2 11 11
National War Bonds 2½% 1952–54	MS	101¼	2 9 4	2 6 5
Savings Bonds 3% 1955–65	FA	101½	2 19 1	2 16 6
Savings Bonds 3% 1960–70	MS	100½	2 19 8	2 19 2
Local Loans 3% Stock	JAJO	96½	3 2 2	—
Bank Stock	AO	385½	3 2 3	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	97½	3 1 6	—
Guaranteed 2¾% Stock (Irish Land Act 1903)	JJ	93½	2 18 10	—
Redemption 3% 1986–96	AO	99¾	3 0 2	3 0 9
Sudan 4½% 1939–73 Av. life 16 years	FA	116	3 17 7	3 4 1
Sudan 4% 1974 Red. in part after 1950	MN	112	3 11 5	1 12 7
Tanganyika 4% Guaranteed 1951–71	FA	106½	3 15 1	2 16 2
Lon. Elec. T.F. Corp. 2½% 1950–55	FA	98½	2 10 9	2 13 2
Colonial Securities				
*Australia (Commonw'h) 4% 1955–70	JJ	108	3 14 1	3 1 2
Australia (Commonw'h) 3½% 1964–74	JJ	102	3 3 9	3 2 2
Australia (Commonw'h) 3% 1955–58	AO	100	3 0 0	3 0 0
†Nigeria 4% 1963	AO	114	3 10 2	3 0 6
*Queensland 3½% 1950–70	JJ	102½	3 8 4	2 17 10
Southern Rhodesia 3½% 1961–66	JJ	105	3 6 8	3 1 11
Trinidad 3% 1965–70	AO	100	3 0 0	3 0 0
Corporation Stocks				
*Birmingham 3% 1947 or after	JJ	96	3 2 6	—
*Croydon 3% 1940–60	AO	101	2 19 5	—
*Leeds 3½% 1958–62	JJ	102	3 3 9	3 1 3
*Liverpool 3% 1954–64	MN	100xd	3 0 0	3 0 0
Liverpool 3¼% Red'mable by agreement with holders or by purchase	JAJO	105	3 6 8	—
London County 3% Con. Stock after 1920 at option of Corporation	MSJD	96	3 2 6	—
*London County 3½% 1954–59	FA	106	3 6 0	2 15 5
Manchester 3% 1941 or after	FA	95	3 3 2	—
*Manchester 3% 1958–63	AO	101	2 19 5	2 18 2
Met. Water Board 3% "A" 1963–2003	AO	97	3 1 10	3 1 10
Do. do. 3% "B" 1934–2003	MS	99	3 0 7	3 0 11
Do. do. 3% "E" 1953–73	JJ	99½	3 0 4	3 0 6
Middlesex C.C. 3% 1961–66	MS	101	2 19 5	2 18 5
*Newcastle 3% Consolidated 1957	MS	101	2 19 5	2 18 0
Nottingham 3% Irredeemable	MN	94½xd	3 3 6	—
Sheffield Corporation 3½% 1968	JJ	107	3 5 5	3 1 6
Railway Debenture and Preference Stocks				
Gt. Western Rly. 4% Debenture	JJ	116½	3 8 8	—
Gt. Western Rly. 4½% Debenture	JJ	122½	3 13 6	—
Gt. Western Rly. 5% Debenture	JJ	136½	3 13 3	—
Gt. Western Rly. 5% Rent Charge	FA	135½	3 13 10	—
Gt. Western Rly. 5% Cons. G'rteed.	MA	133½	3 14 11	—
Gt. Western Rly. 5% Preference	MA	120½	4 3 0	—

* Not available to Trustees over par.
† Not available to Trustees over 115.
‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

"THE SOLICITORS' JOURNAL"

Editorial, Publishing and Advertisement Offices: 88–90, Chancery Lane, London, W.C.2. Telephone: Holborn 1403.

Annual Subscription: Inland, £3; Overseas, £3 5s. (payable yearly, half-yearly or quarterly in advance). Solicitors in H.M. Forces, special rate, £1 17s. 6d. per annum.

Advertisements must be received first post Tuesday.

Contributions are cordially invited and should be accompanied by the name and address of the author (not necessarily for publication).